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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,282	10/17/2003	Martin Vornehm	03191/000N085-US0	9187
7278	7590	06/11/2004	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			GIBSON, ERIC M	
			ART UNIT	PAPER NUMBER

3661

DATE MAILED: 06/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,282

Applicant(s)

VORNEHM, MARTIN

Examiner

Eric M Gibson

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 10 is/are rejected.
- 7) ☒ Claim(s) 3, 5-9 and 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kresse et al. (US006308124B1).

a. As per claim 1, Kresse teaches a method of controlling an automated transmission of a motor vehicle including determining at least one of the pedal-depression value and a driver-demanded torque (column 5, line 55-56), evaluating the at least one shift characteristic by taking at least one of the pedal-depression and driver-demanded torque into account as an input quantity and determining the gear-shifting strategy (column 5, lines 59-62).

b. As per claim 2, Kresse teaches that the pedal-depression value and a driver-demanded torque are taken into account using a mixed quantity (column 6, lines 1-10).

c. As per claim 4, Kresse teaches that the mixed quantity depends substantially on the pedal-depression value when it is large and on the driver-demanded torque when the pedal-depression value is small (column 5, line 54 – column 6, line 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kresse in view of Robichaux et al. (US006220987B1).

a. As per claim 10, Kresse teaches the invention as explained in the rejection of claim 1. Kresse does not explicitly teach that the driver demanded torque includes taking traction torques into account. Robichaux teaches wheel torque based transmission ratio control which discloses that a driver torque demand includes traction assist torque (column 4, lines 21-31). It would have been obvious to one of ordinary skill in the art, at the time of invention, that a driver assist torque request such as that taught by Kresse includes traction torques, as disclosed by Robichaux.

Allowable Subject Matter

3. Claims 3, 5-9, 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

a. As per claim 3, the prior art does not teach or reasonably suggest in combination the present invention including that in the evaluation of the shift characteristic, the mixed quantity is entered as an argument as claimed. Specifically,

the prior art as applied to claim 1 (Kreese) only teaches that the mixed quantity of the pedal-depression value and the driver-demanded torque request are taken into account in the process of the algorithm 100, but not that the mixed quantity is entered as an argument in the evaluation of the shift characteristic.

b. Claims 5-9, 11-13 would serve to further define the invention of claim 3 over the prior art.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Graf et al. (US006311114B1, US005957990A, US005390117A) teaches automatic transmission control in a vehicle. Kronenberg et al. (US006012009A) teaches a system for determining the gear ratio changes for an automatic transmission. Smyth (US004551802A) teaches an automatic transmission control method. Kurihara (EP1040956A1) teaches an integrated control system for an engine and automatic transmission.

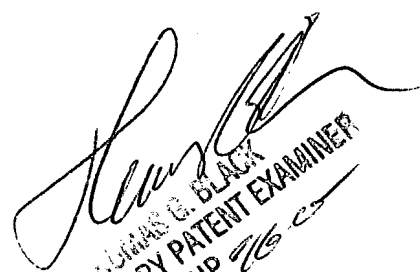
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EMG


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 26